

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPEAL NO.1301 OF 2004

The State of Maharashtra.

..Appellant.

v/s.

Pandurang Manik Bhuwad & ors.

.. Respondents.

Ms.P.H.Kantharia, Additional Public Prosecutor for
the State.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 10th February, 2005

P.C.

Heard Ms.P.H.Kantharia, the learned APP and
perused the judgment dated 21.7.2004 whereby the
learned Additional Sessions Judge, Khed acquitted
the present respondents of the offences punishable
under sections 147, 148, 452, 307, 324, 427,
337,504, 506 read with section 149 of the IPC.

2. The alleged incident appears to have taken place
on 1.4.97. From the prosecution evidence itself, it
transpires that there was a programme of playing
palanquine in the evening on 1.4.97 and a large number
of people from the village had gathered to watch the
programme. It appears that the sudden quarrel arose
between the two rival groups watching the said
programme and it resulted in injuries on some

persons on both sides. In the backdrop of the facts that had come on record, the learned trial Judge cannot be said to have erred in holding that the prosecution failed to prove that the respondents herein formed an unlawful assembly to the common object of rioting.

3. The prosecution relied upon the evidence of PW1 and PW12 to bring home the guilt of the accused persons for the offence under section 307 read with section 149 of the IPC. However the injuries sustained by PW1 and PW12 are simple in nature and not sufficient in the ordinary course of nature to cause death. In this view of the matter, the learned trial Judge cannot be said to have erred in holding that the charge of an offence under section 307 read with section 149 IPC cannot be sustained.

4. The learned trial Judge found that the accused Nos.2,20 and 22 sustained injuries that was apparent from their arrest memoranda. The houses of some of the accused persons were also damaged. There was no explanation to these aspects from the prosecution. The learned trial Judge, thus, put a question mark on the correctness of the version put forth by the prosecution before the court.

5. We find that the learned trial Judge scanned the evidence at quite some length. The learned Additional Public Prosecutor could not point out anything from the evidence which would lead us to hold that the findings of the learned trial Judge suffer from perversity or are otherwise unsustainable in law or on facts.

6. The judgment of acquittal does not call for any interference.

7. Application for leave to appeal is rejected.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)